

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

In re:

RONALD BIFANI,

Case No.: 8:12-bk-00562-MGW

Debtor.

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SHARI S. JANSEN, Chapter 7 Trustee

Plaintiff,

Adversary No. 8:12-ap-00288-MGW

vs.

ARLENE M. LAMARCA,

Defendant.

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**DEFENDANT'S MOTION FOR RECONSIDERATION OF FINAL JUDGMENT**

COMES NOW, the Defendant, ARLENE M. LAMARCA, and moves for this Court for reconsideration of the Final Judgment entered in this case and states as grounds the following:

1. This Court entered Final Judgment against Defendant on August 22, 2013.
2. The judgment awarded damages of \$661,000 on Count I and imposed an equitable lien of \$650,000 on the defendant's homestead located at 101 Garden Lane, Sarasota, Florida.
3. The Court incorrectly calculated the amount of damages imposed in Count I because the amount of damages should have been calculated based upon the amount that Arlene Lamarca received as transferee, less the \$131,000.00 which was due to her as a loan from the Debtor, Ronald Bifani. Accordingly, the correct amount of damages should have been calculated to be \$538,233.29.
4. The Court erroneously imposed an equitable lien in the amount of \$650,000.00. The record reflects that only the amount of \$607,028.53 was transferred from the sale proceeds of the Golden Eagle Road Property. Accordingly, the equitable lien should not have been imposed for an amount higher than \$607,028.53.
5. Pursuant to 11 USC § 550 (a), the Trustee may only recover "*for the benefit of the estate*" the property transferred or the value of such property. The claims filed in this case, not

including the claim of Arlene Lamarca, amount to only \$238,553.70. Accordingly, any recovery awarded above that amount would be an impermissible surplus recovery.

WHEREFORE, the Defendant requests this Court to reconsider its Final Judgment and reenter same in accordance with the above.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true copy of the foregoing Motion for Reconsideration has been furnished electronically or by U.S. Mail to Lori V. Vaughan, Esq., Trenam, Kemker, Scharf, Barkin, Frye, O'Neill & Mullis, P.A., Suite 2700, Bank of America Plaza, 101 East Kennedy Blvd., Tampa, FL 33602, and Debtor Ronald Bifani, this 5th day of September, 2013.

/s/ Benjamin G. Martin  
Benjamin G. Martin  
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